



8 February 2024

John Blackstock
Senior Commercial Advisor
First Gas Limited

Andrew Knight
Chief Executive Officer
Gas Industry Company Limited

Dear John and Andy,

RE: Proposed Amendment to Firstgas CCMP & Other Critical Contingency Related Updates

This letter responds to the proposed amendments to First Gas Limited's ('First Gas') Critical Contingency Management Plan ('CCMP').

Greymouth supports the conveyance of biogas on First Gas' pipelines. In principle Greymouth does not object to First Gas operating the Reporoa to Taupo part of the transmission system between 10 and 20 bar g ('proposal') if all relevant parties have consented (Greymouth's consent is not required as it does not operate in the region) and industry arrangements are functional. Greymouth sets out some issues here in Appendix 1 and 2.

However, the present proposal raises serious concerns, which are set out in more detail below. These should be addressed, preferably as part of this process and certainly before any subsequent proposals to introduce biomethane or other 'new' gases into the system.

Gas Industry Company Limited's ('GIC') recommendation to the Minister¹ and First Gas' recent slideshow² either gloss over or do not mention the involvement of a First Gas related company – First Renewables Limited³ – in the commercialisation of the biomethane proposal. This is of concern for the following reasons:

- a. Section 43P of the Gas Act 1992 permits urgency to be used for regulations where it is necessary or desirable in the **public interest**, not the commercial interests of the monopoly pipeline operator or its related parties. The recommendation to the Minister (which is driving the proposed CCMP amendments) gives as the reason for urgency that First Gas has scheduled the commencement of injection of biomethane for March 2024 and "*there is little flexibility in the commencement date due to the need to ensure*

¹ I.e. the proposed urgent amendments to the Gas Governance (Critical Contingency Management) Regulations 2008 ('CCM').

² Titled 'Broadlands Biomethane Project & Changes to the Firstgas CCMP' – January 2024.

³ <https://www.ecogas.co.nz/news/firstgas-group-and-ecogas-to-turn-biogas-into-renewable-gas-to-inject-into-gas-network>.

that the commercial and technical elements of the biomethane project are aligned.” It also states: “[First Gas says] that the current minimum operating pressure for the [region] will not enable the injection and delivery of biomethane to the transmission network ... without additional compression [which] is likely to impact the economics of [its related party’s biomethane project] through additional capital and operating costs”.

This suggests not only that the commercial interests / ambitions of First Gas and its related party are driving the urgency and lack of ex-ante consultation on GIC’s regulatory amendments, but also that First Gas is in a position to force urgency through its operational scheduling and contractual arrangements. It is far from clear that s 43P has been applied properly in this case.

- b. Under the GTC, First Gas has obligations not to give preference or priority to any pipeline users over others (section 2.15), to treat all parties at arms’ length and to use the information it holds in its role as pipeline operator only in connection with its role as the pipeline operator (section 19.4). In terms of its related party’s involvement in the biomethane project, this raises the following concerns:
 - i. It will not be possible to operate the entire transmission system below 20 bar g to enable the introduction of biomethane at all or indiscriminate points along the pipelines. It therefore follows that there will be only a limited number of access points for biomethane injection, one of which has now been obtained by First Gas’ related party. Neither First Gas nor GIC have addressed whether any other points of access might be available, where they are located, and what the process would be for a potential competitor to First Gas’ related party to obtain access. This would include whether GIC would make an equivalent urgent recommendation to the Minister to enable alignment of an unrelated party’s commercial and technical requirements for access.
 - ii. Agreement from affected pipeline users is required for First Gas to operate a section of the pipeline materially below prevailing and transmission system pressures (which it has committed to First Renewables Limited to use reasonable endeavours to do).⁴ If that was sought by First Gas, then it is questionable whether it has complied with its obligations under s 19.4 of the GTC. If it was sought by First Renewables, then Greymouth seeks confirmation that no information about the users of that pipeline was provided to First Renewables by First Gas without the consent of the affected parties.

The extent of First Gas’ involvement is highly relevant to future proposals to inject biomethane, as any assistance rendered to First Renewables should also be rendered to unrelated parties, to avoid issues of preference and priority, as well as to ensure there are no barriers to entry for new participants.

If the current process is an indication of how First Gas and/or GIC intend to approach the evolution of gases such as biomethane (and hydrogen), it raises serious concerns about access rights (to infrastructure, and to agreed service levels) for incumbent retailers, shippers

⁴ s3.4 of the Interconnection Agreement for Receipt Points (Including: Broadlands Receipt Point) between First Gas Limited and First Renewables Limited dated March 2023 (‘ICA’).

and consumers, for incumbent natural gas producers, and for alternative gas competitors unrelated to First Gas.

As alternative gases continue to develop, it will be important to plan, consult and progress changes in advance so that changes are functional with industry arrangements and properly manage conflicts of interest (and, where relevant, safety) matters.

How First Gas proceeds from here is a matter for it vis-à-vis the risks it wants to take and how co-operative and proactive it wants to be. Much more work is required on the CCMP, industry buy-in, and other system arrangements.

Greymouth encourages GIC to reflect on its recommendation to the Minister. GIC is meant to be a trusted adviser to industry not just to government.

Yours sincerely

A large black rectangular redaction box covering the signature area.

Chris Boxall
Commercial Manager

Cc – Hon. Simeon Brown, Minister for Energy; Paul Goodeve, First Gas CEO; Commerce Commission; Critical Contingency Operator

Appendix 1 – Consent

1. Pressure obligations

First Gas must obtain consent of affected retailers, shippers and end-users in the area because it risks not being a reasonable and prudent operator ('RPO') under the Gas Transmission Code ('GTC') and breaching GTC preference and priority obligations if it reduces pressure below the prevailing and transmission system minimums without consent. This is important for the proposal, and in case First Gas wants to do something similar elsewhere.

Retailers and wholesalers have the legal liability under r42 of the Gas (Safety and Measurement) Regulations 2010 to “supply gas to consumers at a pressure that ensures the safe supply, passage, and use of the gas, where the gas is used for its intended purpose in a properly functioning gas installation.” To proceed with the proposal, First Gas should demonstrate consent from: A – itself as a distributor (the lower pressure going into the region needs to not cause issues for end-users). B – shippers operating in the region (ditto). C – the hot house at Broadlands Delivery (which receives the transmission pressure as a direct connect). C – Fonterra’s dairy factory at Reporoa⁵ (whose size relative to the network should mean an RPO considers this site as if it received the transmission pressure as a direct connect). None of this is evident in the proposal.

2. Transmission system pressure

Prima facie, First Gas must operate the transmission system as a transmission system. Temporary or non-material operational exceptions are allowed as are permanent exceptions with consent. This is for the protection of consumers and industry participants and to ensure industry arrangements are functional.

At present there is effectively a 20 bar g minimum service level⁶ set out in: A – legislation (the Gas Act 1992 defines gas transmission as high pressure if *operations* exceed 20 bar g). B – the GTC (s2.7(a) sets out the RPO requirements and s2.7 is the nexus by which First Gas’ revenues link with its making gas available at Delivery Points at pressures greater than 20 bar g). RPO requires “an operator of a high pressure gas transmission system [to have a] standard of performance ... equal to or better than good high pressure gas transmission system operating practice”. First Gas therefore risks breaching its RPO obligations if it, as an operator, materially / knowingly perpetually operates infrastructure above / below the operating envelope set in legislation and contractually agreed with industry participants (or attempts to unilaterally redefine the transmission system / map) without the appropriate consent. First Gas could proceed with its proposal if has the required consent and industry arrangements are functional.

NB: any approval of the CCMP or GIC’s proposal would not permit First Gas to unilaterally change the GTC to operate high pressure transmission pipelines lower than 20 bar g (or to remove parts of the transmission system) because GIC’s proposal relates to reactive critical contingency management instructions and points of measurement (and removes an artificial 30 bar g pressure minimum but does not set a new minimum pressure at the affected gas gates). GIC’s proposal does not change pressure operating envelopes or the size of the transmission system.

⁵ page 8 of the January 2024 update.

⁶ it is often higher than that because of Schedule 1 of the CCM

Appendix 2 – Functionality of industry arrangements

1. MPOC

First Gas risks breaching its Maui Pipeline Operating Code ('MPOC') RPO and confidentiality obligations if it does not restructure its functions ahead of first biogas injection. s24.1(b) of the MPOC requires First Gas to switch its systems away from an all-of-First Gas approach back to the old "MDL" commercial, technical and system operator functions when First Gas or a related party becomes a gas producer. As the 'Biogas Upgrading Facility' is owned and operated by First Renewables Limited and that plant processes biogas into Gas for injection into the open-access pipeline,⁷ First Renewables looks like it will "*supply gas that is transmitted through gas transmission or distribution pipelines.*"⁸ The proposal does not seem to have addressed the functional changes required under the MPOC.

2. CCMP

The CCMP (and GIC's proposal) has shortcomings which require addressing. First – First Gas should clarify its operating pressure intentions (GIC assumes 10 bar g⁹ but First Gas can operate up to 14.5 bar g¹⁰ yet will struggle to operate lower than 20 bar g without consent from affected parties). Second – neither the CCMP nor GIC's proposal have backed out Reporoa which First Gas says can receive biomethane at the higher of 10 bar g and the pressure supplied by Broadlands¹¹ (making Reporoa curtailments likely). Third – First Gas additionally proposes deleting one Bay of Plenty line item in the CCMP when GIC's proposal is only to remove the Broadlands and Taupo gas gates as measurement points from Schedule 1. The latter requires more thought because carving out gas gates does not stop those gas gates being curtailed when pipeline pressure between the gas gates is between 10 and 20 bar g (GIC has designed a solution for a r48(1)(a) CCM pathway but not a r48(1)(b) CCM pathway).¹²

3. Other

If GIC's proposal is approved, First Gas and GIC have six months to develop solutions or proposals that align industry systems – otherwise it is questionable whether GIC could approve its proposal ex-post if First Gas were to attempt to make temporary exceptions to its arrangements permanent. One option is for Reporoa to Taupo to be reclassified as a distribution system (or make changes to the Gas Act and GTC) and make associated changes to the regulated asset bases overseen by the Commerce Commission with flow-through changes to transmission and distribution conveyancing tariffs. Greymouth queries whether the work was, or should have been, factored into DPP3 – compensation might be in order as industry, not the monopoly pipeline operator, should benefit from long-lead opex efficiencies.

⁷ s2 of the 'ICA'.

⁸ r2(1) of the Gas Act 1992.

⁹ page 2 of GIC's proposal –minimum upstream regulator pressure is not the operating pressure.

¹⁰ page 10 of the ICA.

¹¹ page 10 of the January 2024 update.

¹² e.g. the CCO may curtail at Taupo to restore pipeline pressure between, not at Taupo as the intra-pipeline points are subject to undefined thresholds likely to be interpreted at 20 bar g or 30 bar g for the Bay of Plenty pipeline (removing points of measurement does not remove all intra-pipeline points) given GIC's proposal says low operating pressure does not meet the purpose of the CCM.